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G03-1524 What is Fair Housing? When Does Discrimination Occur?

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What is Fair Housing? When Does Discrimination Occur?

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This NebGuide will provide you with an overview of housing discrimination. It will provide examples in which discrimination may or may not have occurred. This publication is not intended to serve as a legal document or interpretation of the law. It is provided for awareness and educational purposes only. For more information, contact the agencies listed at the end of this publication or legal professionals.

The Nebraska Fair Housing Act

The *Nebraska Fair Housing Act* is a law that protects everyone's right to freely choose a place to live in peace and dignity without experiencing discrimination, harassment or intimidation.

Housing Discrimination

Housing Discrimination is a difference in treatment because of a person's "protected class" status (i.e., race, color, national origin, religion, disability, sex, or because they have children). It is illegal. Anyone who believes they have experienced discrimination has a right to file a charge within 365 days from the date of harm. The following information will help you determine if you need to speak with someone about how you were treated when looking for housing to buy or rent.

When you are seeking to **rent** property, be suspicious and alert when you hear statements like these:

- "I rented that apartment right after you called."
- "This building is for adults only."
- "You might not fit in."

When you are seeking to **purchase** property, be suspicious when you hear statements like these:

- "Do you think you can afford this neighborhood?"
- "The owner just took the house off the market."

All of the above *may be evidence* of illegal discrimination. Do you feel uncomfortable when a housing provider fails to shake your hand, does not extend common courtesies, shows you an apartment that is dirty or has other conditions that could pose safety hazards? Sometimes it is difficult to tell if you are being treated fairly.

When you feel uncomfortable, you may decide not to pursue the housing of your choice. You may have experienced housing discrimination because you are in one or more *protected classes*. If the housing provider's actions are inconsistent with placing you in the housing you seek, you may be experiencing housing discrimination.

Discrimination occurs when people are not allowed to complete an application, are told that housing is not available or are not given enough information to make an informed decision because of their *protected class*. The law allows everyone to enjoy equal housing opportunities and makes it illegal to discriminate based on a person's *protected class*. The law covers all housing activities.

Discriminatory Housing Activities

Discriminatory *housing activities* can include:

- the refusal to sell, rent or make the property available;
- the denial or delay of housing services (such as maintenance work, repairs, etc.);
- different terms and conditions in the use of facilities (such as using the laundry room, club house, playground or swimming pool);

**You have
365 days
from the date of
harm to file a
charge of discrimination.**

SITUATION A

“I had a client last week who reported that a landlord said that because he (the client) is HIV positive, he’d probably get beat up, so it might not be a good idea to move into that house. So the landlord got around the whole regulation thing, saying, ‘You can move in but I’m just telling you what could happen if you do that type of thing.’”

Is this illegal discrimination? How would you know? Who would you contact to find out if it is? How would you know if you should file a charge of housing discrimination? (See answers on page 4.)

SITUATION B

A woman files a charge of discrimination against the male owner of a house who also lives there. He rented rooms to two unrelated men, but refused her application for the vacant room.

Is this illegal discrimination? How would you know? Who would you contact to find out if it is? How would you know if you should file a charge of housing discrimination? (See answers on page 4.)

- the denial of a mortgage loan or an accommodation.

The decision to file a complaint regarding your treatment is, of course, up to you. Making a timely and informed decision will preserve your rights.

What Housing Is Not Covered?

Most housing activities are covered under the law. The *exceptions* include housing operated by organizations, institutions and private clubs that limit who may live in the house to its members, and housing set aside for older persons. Furthermore, if an owner with no more than four units lives in the building or house that is being rented, the building is excluded under the fair housing law. (See situation B.)

Who May File Under the Fair Housing Act?

Anyone who has been harmed as a result of discrimination in a housing activity may file under *one or more* of the *protected classes*, including a person who:

- is directly harmed;
- is associated with someone who is directly harmed;
- participated in an investigation as a witness and was harmed;
- opposed an illegal housing practice and was harmed.

Race

Race refers to people of all races, including but not limited to, white people with European, North African or Middle Eastern ancestry, who are not Hispanic. Race includes black people having origins in any of the black racial groups of Africa but who are not of Hispanic origin. (In this publication, Hispanic is not a race but is covered under national origin.)

Race Discrimination:

A black applicant for a mortgage loan is required to provide proof that he/she has been employed for three years or more with the same company. However, the loan officer is only required to seek information about steady employment. The lender does not make a white applicant provide the same kind of information.

Color

Different skin colors exist, even within racial groups, and some people may believe they have been treated unfairly because of their skin color. Generally, people have filed charges because they were discriminated against as a result of being lighter-skinned or darker-skinned.

Color Discrimination:

A lighter-skinned person from India, who is the landlord, refuses to rent to a darker-skinned person from India. It also may occur when a white landlord provides favorable terms of rental to lighter-skinned blacks and treats darker-skinned blacks unfavorably.

National Origin

A person may file national origin discrimination in one or more of these categories:

- *Hispanics*: All persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish cultures without regard to race.
- *Asian or Pacific Islander*: All persons of the Far East, Southeast Asia, the Indian Sub-Continent or the Pacific Islands. Included are: China, Japan, Korea, the Philippine Islands and Samoa.

- *American Indian or Alaskan Native*: All persons having origins in any of the original people of North America.

National Origin Discrimination:

- A person from Mexico with a Spanish accent calls to ask about the availability of an apartment that has been advertised for rent. The landlord says it is not available, when in fact it is.
- People with Chinese physical characteristics made an appointment to view an apartment they were told was available. They arrived 30 minutes later and were not allowed to see the apartment.

Religion

Showing a preference for or against a religious group, or showing intolerance for that group's observation of its religious practices or dietary habits is religious discrimination.

Religious Discrimination:

A housing provider refuses to show or rent a vacant apartment to someone who declines to reveal his or her religious beliefs or who practices a different religion.

Sex

Sex discrimination is being treated differently because of a person's gender. Both women and men may experience illegal discrimination in housing because of their sex. This *protected class* includes sexual harassment.

Sex Discrimination:

- A landlord rents to single women living together but will not rent to single men who want to live together.
- A housing provider (of the same or different sex) demands that you sleep with him/her to rent the apartment or have repairs made.

Familial Status

Familial status refers to the presence of children under the age of 18 who are members of the household because of their birth, adoption or because they have been legally placed in the household. Discrimination in this "protected class" includes placing limitations on the number or age of the children in the family.

Familial Status Discrimination:

- A woman is evicted from her apartment because she is pregnant.
- A household with children is charged a higher security deposit than a household without children.

Disabilities

Under the law, a person with a *disability* is someone:

- with a physical or mental condition that greatly limits one or more of his/her major life activities. *Major life activities* include (but are not limited to) walking, talking, seeing, hearing, learning, working, breathing, etc.;
- with a record of such a condition; or
- perceived as having such a condition.

If persons with disabilities have suffered housing discrimination, they should speak with someone who knows the law.

If a property is not accessible, a person should discuss accommodations and modifications with the housing provider. *Accommodations* can include adjustments in policies, practices or procedures. *Modifications* include physical changes to the structure.

Disability Discrimination:

Accommodation

A landlord with a "no pet" policy does not allow a person with a mental or physical disability to have a service animal or companion animal.

Modification

A person who uses a wheelchair has an accessible apartment but is unable to use the laundry facility.

Where Should I Go If I Feel That I Have Been Discriminated Against?

Several agencies and organizations assist persons who have experienced housing discrimination. These services are provided without cost. It is your responsibility and right to report violations of the housing law. Failure to report violations or file a complaint will impact others and may lead to the continuation of discrimination.

When persons believe they have been denied an equal housing opportunity, they have one year from the date that the harm occurred to file a charge of discrimination with an enforcement agency.

**For more information or to file a complaint, contact
The State of Nebraska Equal Opportunity Commission**

In Lincoln:

State Office Building, 5th Floor
301 Centennial Mall South
P.O. Box 94934
Lincoln, NE 68509-4934
(402) 471-2024

In Omaha:

State Office Building
1313 Farnam on the Mall
Omaha, NE 68102-1936
(402) 595-2028

In Scottsbluff:

Panhandle State Office Complex
4500 Avenue I
P.O. Box 1500
Scottsbluff, NE 69363-1500
(308) 632-1340

If outside Lincoln, Omaha or Scottsbluff, call: 1-800-642-6112

Language interpreters are provided upon request.

For a Spanish-speaking investigator, call: 1-800-830-8633

You also may contact one of the following enforcement agencies.

Omaha Human Relations Department

1819 Farnam St., Room 502
Omaha, NE 68183
(402) 444-5055

U.S. Department of Housing and Urban Development

Executive Tower Center
10909 Mill Valley Road
Omaha, NE 68154-3955
1-800-743-5323

Lincoln Commission on Human Rights

440 S. Eighth St., Suite 101
Lincoln, NE 68508
(402) 441-7624

Answers to Situations:

SITUATION A

In this example, a person is intimidated when told that he could be attacked because of his medical condition. This is called steering and is illegal because the person is discouraged from applying for the house of his choice.

SITUATION B

In this example, the owner is an occupant of one of the four units. He has rented two units to males and refuses to rent the third unit to a female. This is not illegal discrimination, because the house is owner-occupied. There are only four units and the owner wants to have only male tenants. In this case, the owner has a right to refuse to rent to a female tenant.

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**Index: Consumer Education
Consumer Information**

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